

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WP(C).NO. 3781 OF 2015 (W)

PETITIONER(S):

M/S. EMINENT MINI STORES, 7/249. COURT ROAD,
KOZHIKODE REPRESENTED BY IT'S MANAGING PARTNER MR.K.P.ABDUL
RAHIMAN

BY ADV. SMT.K.LATHA

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM-695001
2. THE COMMERCIAL TAX OFFICER, DEPARTMENT OF COMMERCIAL TAXES,
1ST CIRCLE, KOZHIKODE -673001
3. THE COMMERCIAL TAX INSPECTOR, COMMERCIAL TAX CHECKPOST,
WALAYAR,-678002

BY GOVERNMENT PLEADER SMT.SOBHA ANNAMMA EAPPEN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: THE TRUE COPY OF CERTIFICATE OF REGISTRATION WITH TIN NO.32110656175

EXT.P2: THE TRUE COPY OF THE CERTIFICATE OF IMPORTER-EXPORTER CODE (IEC) VALID WEF 21.03.2002 ISSUED BY THE MINISTRY OF COMMERCE, GOVT. OF INDIA

EXT.P3: THE TRUE COPY OF THE LICENSE FOR EXPORT OF TEA RENEWED UPTO 20.08.2017 ISSUED BY THE CONTROLLER OF LICENSING TEA BOARD, CALCUTTA-1, TO THE PETITIONER DATED 15.9.2014

EXT.P4: THE TRUE COPY OF ONE OF THE PURCHASE ORDERS DATED 11.6.2014 AND 06.08.2014 ISSUED BY NEEM FOODS, RAMADAN

EXT.P5: THE TRUE COPY OF THE INVOICES OF POOJA TRADING COMPANY COONOR TO THE PETITIONER DELIVERY AT MATTANCHERRY TO EXPORT WITH INVOICE NO.2 DT.28.11.2014 AMOUNTING RS.5,35,480/-

EXT.P6: THE TRUE COPY OF THE INVOICES OF POOJA TRADING COMPANY COONOR TO THE PETITIONER DELIVERY AT MATTANCHERRY TO EXPORT WITH INVOICE NO.4 DT.23.12.2014 AMOUNTING RS.6,42,475.00

EXT.P7: THE TRUE COPY OF THE INVOICES OF POOJA TRADING COMPANY COONOR TO THE PETITIONER DELIVERY AT MATTANCHERRY TO EXPORT WITH INVOICE NO.5 DT.23.12.2014 AMOUNTING RS.4,96,865.00

EXT.P8: THE TRUE COPY OF THE INVOICES OF POOJA TRADING COMPANY COONOR TO THE PETITIONER DELIVERY AT MATTANCHERRY TO EXPORT WITH INVOICE NO.6 DT.10.01.2015 AMOUNTING RS.5,27,710.00

EXT.P9: THE TRUE COPY OF THE INVOICES OF POOJA TRADING COMPANY COONOR TO THE PETITIONER DELIVERY AT MATTANCHERRY TO EXPORT WITH INVOICE NO.7 DT.10.01.2015 AMOUNTING RS.3,91,265.00

EXT.P10: THE TRUE COPY OF INVOICE NO.1077 DATED 19.12.2014 ALONG WITH ITS CORRESPONDING BILL OF LADING AND OTHER EXPORT DOCUMENTS

EXT.P11: THE TRUE COPY OF INVOICE NO.1076 DATED 14.11.2014 ALONG WITH ITS CORRESPONDING BILL OF LADING AND OTHER EXPORT DOCUMENTS

EXT.P12: THE TRUE COPY OF AUTHORISATION FORWARDING LETTER ISSUED BY THE ASST. DIRECTOR GENERAL OF FOREIGN TRADE, DATED 18.12.2014

EXT.P13: THE TRUE COPY OF THE RETURN IN FORM NO.10 DATED 20.01.2015
FILED BY THE PETITIONER

EXT.P14: THE TRUE COPY OF THE INVOICE NO.015 AND 016 BOTH DATED
30.1.2015 ISSUED BY THE POOJA TRADING COMPANY COONOR TO THE
PETITIONER

EXT.P15: THE TRUE COPY OF THE DETENTION NOTICE OR NO.563/1/2014-15
DATED 2.02.2015 ISSUED BY THE THIRD RESPONDENT U/S 47(2) OF THE KVAT
ACT TO THE PETITIONER

EXT.P16: THE TRUE COPY OF THE CERTIFICATE DATED 4.02.2015 ISSUED BY
THE SECOND RESPONDENT TO THE PETITIONER

RESPONDENTS' EXHIBITS: NIL

//TRUE COPY//

P A TO JUDGE

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.3781 of 2015

.....
Dated this the 5th day of February, 2015

JUDGMENT

The petitioner, who is a registered dealer under the KVAT Act is aggrieved by Ext.15 detention notice whereby a consignment of tea, that was being transported from Coonoor to Calicut at his instance was detained by the Commercial Tax Checkpost, Walayar. In the writ petition, the petitioner is aggrieved by the insistence of the respondents that the petitioner must pay the security deposit demanded in the detention notice as a condition for release of the goods and vehicle.

2. Heard Smt.Latha.K, the learned counsel for the petitioner and Smt.Sobha Annamma Eappen, the learned Government Pleader for the respondents.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I dispose the writ petition with the following directions:

(i) On a perusal of Ext.P15 notice, it is seen that the only objection of the respondents is that according to them the consignee is not a person who is authorised to export tea and the

purpose of transportation was indicated as to enable the consignee to export. In the writ petition, the petitioner produces Ext.P16 certificate issued by Commercial Tax Officer at Kozhikode, which indicates that the petitioner is a registered dealer who has an export licence and, further, there is no arrears of tax outstanding against the petitioner.

(ii) Under the circumstances, I direct the 3rd respondent to release the goods and the vehicle subject to the petitioner furnishing a simple bond without sureties for the security amount demanded in Ext.P15, before the 3rd respondent.

(iii) The 3rd respondent shall thereafter transmit the files to the adjudicating authority who shall adjudicate the matter and pass orders, after hearing the petitioner, within two months from the date of receipt of a copy of this judgment.

(iv) The petitioner shall produce a copy of this judgment and a copy of the writ petition before the respondents.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns/

